

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND REFORM

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August 16, 2019

Ms. Abbe Gluck
Professor of Law
Director of the Solomon Center for Health Law and Policy
Yale University Law School
127 Wall Street
New Haven, CT 06511


Dear Ms. Gluck:

Enclosed are questions that have been directed to you and submitted for the official record for the hearing on Wednesday, July 10, 2019, titled "The Trump Administration's Attack on the ACA: Reversal in Court Case Threatens Health Care for Millions of Americans."

Please return your written responses to these questions by Friday, August, 30, 2019, including each question in full as well as the name of the Member. Your response should be addressed to the Committee office at 2157 Rayburn House Office Building, Washington, D.C. 20515. Please also send an electronic version of your response by email to Amy Stratton, Clerk, at Amy.Stratton@mail.house.gov.

Thank you for your prompt attention to this request. If you need additional information or have other questions, please contact Elisa LaNier, Chief Clerk, at (202) 225-5051.

Sincerely,



Elijah E. Cummings

Chairman

Enclosure

cc: The Honorable Jim Jordan, Ranking Member

Questions for Professor Abbe Gluck

Professor of Law and Director of the Solomon Center for Health Law and Policy
Yale Law School

Questions from Chairman Elijah E. Cummings

July 10, 2019, Hearing on: “The Trump Administration’s Attack on the ACA: Reversal in Court Case Threatens Health Care for Millions of Americans”

1. Some states have taken steps to implement state-level regulatory and/or statutory protections for people with pre-existing conditions.
 - a. Will these state-level protections be effective in the absence of the ACA’s financial assistance to consumers?
 - b. What would be the impact on state-level protections if the entire ACA is struck down?
2. During the hearing, the panel was asked to indicate support—by a show of hands—for general statements about various health care policies. Some witnesses may have abstained from answering complex policy questions in this manner and were not given the opportunity to make that clear.
 - a. Please provide any additional information you would like in relation to these questions.
3. During the hearing, you were asked about the legal doctrine of severability as it applies to *Texas v. United States*.
 - a. What is the relevance of Congress’s 2010 position on the severability of the ACA’s requirement to maintain minimum essential coverage to the ongoing *Texas v. United States* litigation?
 - b. What is the relevance of the Department of Justice’s 2012 litigating position and the Supreme Court’s ruling in *National Federation of Independent Business (NFIB) v. Sebelius* to the ongoing *Texas v. United States* litigation?
 - c. Please provide a brief explanation of how Congress’s 2017 amendment to the ACA’s individual shared responsibility payment impacts the analysis of the provision’s severability from the rest of the law.